

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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SECURITIES AND EXCHANGE COMMISSION,:

Plaintiff,

-against-

BENJAMIN ALDERSON and
BRADLEY HAMILTON,

Defendants.
-----X

18-CV-4930 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS Defendants Alderson and Hamilton seek the production of fourteen documents in the possession of non-party Brite Advisors USA, Inc. (“DVU”), Dkt. 105 at 1;

WHEREAS Defendants have also requested *in camera* review of such documents;

WHEREAS Defendants bear the initial burden of showing that the documents being sought are relevant;

WHEREAS DVU bears the burden of showing that the documents being withheld are privileged and that privilege has not been waived¹;

WHEREAS Defendants claim, in general terms, that those documents are relevant to their defense, and in particular, to impeaching a witness’s credibility, Dkt. 105 at 1;

WHEREAS Defendants do not dispute that those documents are privileged and protected from disclosure absent a waiver, *see* Dkt. 105 at 1, 3;

¹ See *United States v. Int’l Bhd. of Teamsters, Chauffeurs, Warehousemen & Helpers of Am., AFL-CIO*, 119 F.3d 210, 214 (2d Cir. 1997).

WHEREAS DVU has previously waived privilege as to certain subjects (“Subjects”) pertaining to the SEC’s complaint and investigation, for a specified time period (“Time Period”), *see* Dkt. 106-2 at 2–3;


WHEREAS DVU does not dispute that two of the fourteen documents being withheld are related to the Subjects (Related Documents)², though it contends that the Related Documents are beyond the Time Period, *see* Dkt. 106 at 2;

WHEREAS Defendants have failed to explain how each of the remaining twelve documents could be relevant to this case, and nothing in the privilege logs or the parties’ description(s) of the documents suggests that those documents contain relevant information³;

IT IS HEREBY ORDERED that Defendants’ request for production or further *in camera* review is DENIED as to all documents except the Related Documents. DVU is directed to submit the Related Documents for *in camera* review, no later than **January 13, 2020**.

SO ORDERED.

Date: January 9, 2020
New York, New York



VALERIE CAPRONI
United States District Judge

² The Related Documents are identified as (1) CTRL00478418, and (2) CTRL01156482, CTRL01156483, and CTRL01156542. *See* Dkts. 105 at 2, 106 at 2.

³ Two of the twelve documents (DVUSA18cv4930-154315-17; DVUSA18cv4930-154390-92) have already been submitted for *in camera* review; the Court has found nothing in the documents that would warrant production.